UNITED NATIONS **S**

Security Council

Distr.
GENERAL

S/1999/555
13 May 1999
ENGLISH
ORIGINAL: FRENCH

LETTER DATED 13 MAY 1999 FROM THE SECRETARY-GENERAL ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL*

I have the honour to transmit to you herewith a copy of a letter dated 28 April 1999, from Mr. Mohammed Abdelaziz, Secretary-General of the Frente Polisario, addressed to me in response to measures proposed by the United Nations for the identification and appeal procedure of persons requesting to participate in the Western Sahara referendum (S/1999/483/Add.1).

I should be grateful if you would bring the contents of this letter to the attention of the members of the Security Council.

(Signed) Kofi A. ANNAN

* Circulated as a result of the request made by the President of the Security Council on behalf of the Council to that effect on 13 May 1999.

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Annex

Letter dated 28 April 1999 from the Secretary-General of the Frente Polisario addressed to the Secretary-General

When Mr. Bernard Miyet, Under-Secretary-General for Peacekeeping Operations, transmitted to the parties, in October 1998, your proposals for resuming the process to bring about a settlement in Western Sahara, the Frente POLISARIO immediately welcomed this initiative. I confirmed to you personally our total and unequivocal agreement in favour of this package of measures during your visit to the region at the end of November 1998.

In expressing its agreement, the Frente POLISARIO had obviously made a major concession in that it accepted what it had continuously rejected in the past - the identification of the disputed tribal groupings. It did so on the understanding that it was a question, as you yourself underscored, of a package that formed an indissoluble whole and was based on a balance among all the elements constituting it. In other words, the agreement meant that the identification of tribal groupings H41, H61 and J51/52 and the appeal procedures would take place simultaneously and under conditions of complete strictness, impartiality and transparency.

However, the Moroccan party, after having initially given its agreement, subsequently and for a number of months procrastinated endlessly, while it had obtained, through these new proposals, complete satisfaction with regard to a demand that it had made its hobby horse, namely the identification of tens of thousands of persons, virtually all of whom live in Morocco and who, therefore, have no connection with Western Sahara.

In order to make it possible for Morocco to join the broad consensus that your proposals enjoyed, we agreed that the United Nations, in strict respect for the integrity of the package of measures and the principle of simultaneity among the identification operations for the disputed tribes and the appeal operations for those already identified, should discuss the matter with the Moroccan party and provide it with the necessary clarifications.

The Security Council, which, from the beginning, endorsed your initiative through resolution 1204 (1998), supported this step calling for a comprehensive agreement in order to ensure its implementation as speedily as possible. It also, in the same resolution, reiterated its call for the strengthening of the Identification Commission in order to enable it to continue to work rigorously and with impartiality in order to complete the process. The Council, furthermore, reaffirmed, in its resolutions 1215 (1998), 1228 (1999) and 1232 (1999), the need for the consultations under way then to preserve the essence of the package of measures and not call into question its main elements.

In the version transmitted by the Secretariat to the two parties on 8 April 1999, major changes were made to the original texts, particularly the protocol on appeal procedures. The operational directives relating to it introduced, in some of their provisions, totally new procedures.

During the frank and fruitful discussions which the Frente POLISARIO had with Mr. Miyet and Mr. Kinloch, it explained the numerous concerns that we had with regard to this new version and put forward a number of amendments concerning, inter alia, the methods of proof recognized by the Identification Commission and, in particular, by the appeals sections. The delegation above all indicated our strong reservations concerning the oral testimony accorded henceforth to every individual, whereas the Settlement Plan authorized only the sheiks to make use of it. In this context, it expressed fears that this would lead to a serious change by inundating the sections with an endless number of appeals, resulting ultimately in repeat identifications and, worse yet, a forced reappraisal of the work carried out laboriously by the Commission.

Some of these proposals were taken into consideration in the revised text one last time on 24 April. Clarifications, both written and oral, were made to the provisions concerning oral testimony, without, however, completely eliminating the danger that the United Nations might be confronted with thousands of unjustified and unjustifiable appeals, which, in the end, would paralyse the work of the Identification Commission and strike a serious blow to its credibility and authority and, consequently, the credibility and authority of the United Nations.

In spite of these shortcomings and following the assurances provided by the Secretariat that the appeal operations would be conducted under maximum conditions of impartiality and strictness, the Frente POLISARIO, which never stinted on its support for you in your efforts to hold a free and fair election in Western Sahara, formally accepted the latest version of your proposals for a settlement, annexed to your letter dated 26 April 1999, on the understanding that

- The appeal and identification operations for the disputed tribal groupings (H41, H61 and J51/52) will be carried out under conditions of exemplary strictness, transparency and fairness,

- The Identification Commission will continue to carry out its mission demonstrating its authority, independence and impartiality as in the past, since it is a well known fact that this demand, on which the success of the entire process depends, will remain the keystone of the entire structure.

The Frente POLISARIO considers that this is a real opportunity which the parties must seize in order to ensure a fair and definitive settlement of the Western Sahara conflict. Indeed, thanks to your personal commitment to the untiring work of your Personal Envoy and the determination of the Under-Secretary-General for Peacekeeping Operations and your Acting Special Representative, as well as the support of the Security Council and the entire international community, the process begun by the United Nations in Western Sahara eight years ago can now lead, within the dates established, to the referendum on self-determination which the Saharan people has waited for so long.

(Signed) Mohammed ABDELAZIZ